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June 30, 1994

Direct Dial: (202)466-6532

RECORDATION NO. 10398-K FILED 1495

JUL 1 1994 - 10 05 AM

INTERSTATE COMMERCE COMMISSION

Honorable Sidney L. Strickland, Jr.  
Secretary  
Interstate Commerce Commission  
Washington, DC 20423

Dear Secretary Strickland:

I have enclosed the original and three certified copies of each of the two documents described below, to be recorded pursuant to 49 U.S.C. § 11303.

- I. The first document is a Release, dated June 30, 1994, a secondary document. The primary documents to which this is connected are recorded under Recordation Nos. 10398 and 10621. We request that this document be recorded under Recordation Nos. 10398-J and 10621-G.

The name and address of the party to the Release is:

Agent:

National Westminster Bank  
175 Water Street  
New York, NY 10038

A description of the equipment covered by the Release consists of 149-400-ton 4,650 cubic foot lined covered hopper cars numbered ATSF 317500-317572, and 317574-317649, all inclusive.

- \* II. The second document is a Note and Security Agreement, a secondary document, dated June 30, 1994. The primary documents to which this is connected are recorded under Recordation Nos. 10398 and 10621. We

RECEIVED  
OFFICE OF THE  
SECRETARY  
JUL 1 10 00 AM '94  
LICENSING BRANCH

WCL:slf  
Gamm

Counterparts

Honorable Sidney L. Strickland, Jr.  
June 30, 1994  
Page 2

request that this document be recorded under Recordation Nos. 10398-K  
and 10621-H.

The names and addresses of the parties to the Note and Security Agreement  
are:

Lender:

Hitachi Credit America Corp.  
777 W. Putnam Avenue  
Greenwich, CT 06830

Debtor:

First Security Bank of Utah, N.A.  
79 S. Main Street  
Salt Lake City, UT 84111

A description of the equipment covered by the Note and Security Agreement  
consists of 149 100-ton 4,650 cubic foot lined covered hopper cars numbered ATSF  
317500-317572, and 317574-317649, all inclusive.

<sup>72</sup>  
A fee of \$~~36~~.00 is enclosed. Please return the original and one certified copy  
of the document to:

Louis E. Gitomer  
Ball, Janik & Novack  
Suite 1035  
1101 Pennsylvania Avenue, N.W.  
Washington, DC 20004

A short summary of the documents to appear in the index follows: (1) a Release  
by National Westminster Bank, 175 Water Street, New York, NY 10038, covering  
149 100-ton 4,650 cubic foot lined covered hopper cars numbered ATSF 317500-  
317572, and 317574-317649, all inclusive; and (2) Note and Security Agreement

BALL, JANIK & NOVACK

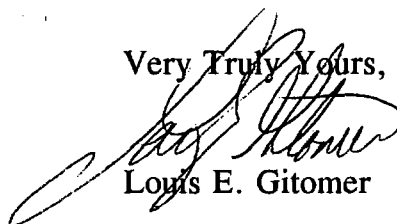
Honorable Sidney L. Strickland, Jr.

June 30, 1994

Page 3

between Hitachi Credit America Corp., 777 W. Putnam Avenue, Greenwich, CT 06830, and First Security Bank of Utah, N.A., 79 S. Main Street, Salt Lake City, UT 84111, covering 149 100-ton 4,650 cubic foot lined covered hopper cars numbered ATSF 317500-317572, and 317574-317649, all inclusive.

Very Truly Yours,

A handwritten signature in dark ink, appearing to read "Louis E. Gitomer", is written over the typed name. The signature is fluid and cursive, with a long horizontal stroke extending to the left.

Louis E. Gitomer

Enclosures

JUL 1 1994 - 10 05 AM

INTERSTATE COMMERCE COMMISSION

NOTE AND SECURITY AGREEMENT

\$2,890,668.00

Date: June 30, 1994

FOR VALUE RECEIVED, the undersigned debtor, First Security Bank of Utah, N.A. ("First Security"), not in its individual capacity but solely as Owner Trustee of that certain trust created under the Authorization and Direction dated as of May 15, 1979, executed pursuant to the Master Trust Agreement dated as of October 31, 1978, between Itel Corporation as Trustor and First Security Bank of Utah, N.A. as Owner Trustee (the "Debtor"), hereby promises to pay to the order of Hitachi Credit America Corp. (hereinafter called the "Lender") the principal amount of TWO MILLION EIGHT HUNDRED NINETY THOUSAND SIX HUNDRED SIXTY-EIGHT AND 00/100 DOLLARS (\$2,890,668.00), together with interest thereon at the rate of 7.87% per annum, in 22 equal installments of \$161,605.21 each commencing on August 15, 1994 and continuing quarterly in arrears thereafter through and including December 15, 1999 ("Final Loan Payment Date").

Section 1. Grant of Security Interest.

As security for the payment and performance of the obligations of the Debtor under this Note and Security Agreement ("Note and Security Agreement"), Debtor hereby gives, grants and assigns to the Lender a security interest in and lien on all of the Debtor's rights in the following described property now owned by the Debtor or to be purchased by the Debtor with the proceeds of this Note and Security Agreement (hereinafter called the "Collateral").

1. The Equipment Lease dated as of May 15, 1979 (the "Lease"), each between the Debtor, as lessor, and The Atchison Topeka and Santa Fe Railway Company, successor-in-interest to Mitsubishi International Corporation, successor-in-interest to Agrex, Inc. formerly known as Koppel, Inc., as lessee.
2. All Basic Rent, Supplemental Rent, Casualty Values, Termination Values, Fair Market Values and other moneys due or to become due to First Security under the Lease, but excluding indemnification payments paid to Debtor pursuant to Section 12 of the Lease.
3. All the Debtor's rights, but none of its obligations, as lessor under the Lease.
4. All the Debtor's right, title and interest in and to the Equipment as set forth and described on Schedule A hereto.
5. All the Debtor's right, title and interest in and to all additions, replacements, accessions, substitutions and improvements to the Equipment which become incorporated in, or are replacements to the Equipment under the Lease.
6. All proceeds of the foregoing.

**Section 2. Representations and Warranties of the Debtor.**

The Debtor, in its individual capacity as to paragraphs 2, 3, 4 and 5 and otherwise in its capacity as trustee, hereby represents and warrants to the Lender as follows:

1. This Note and Security Agreement, the Trust Agreement, the Rent Assignment Letter from Debtor and Lessee to Lender, dated as of June 30, 1994 and the Lease have each been duly authorized, executed and delivered by the Debtor and assuming the due authorization, execution and delivery by the other parties thereto, each constitutes a legal, valid and binding agreement and obligation of the Debtor, enforceable according to its terms, except as such enforcement may be limited by bankruptcy, reorganization, moratorium, insolvency or similar laws affecting creditors' rights generally or by equitable remedies in the discretion of the courts, and the Lease, and the Rent Assignment Letter among the Lessee, the Debtor and the Owner Participants constitute the entire agreement between the Debtor and the Lessee pertaining to the leasing of the Equipment by the Debtor to the Lessee.
2. The execution and delivery of this Note and Security Agreement, the Lease, the Rent Assignment Letter and the Trust Agreement and the consummation of the transactions contemplated herein or therein and the fulfillment of and compliance with the terms and provisions hereof and thereof (i) do not result in a breach of any of the terms, conditions or provisions of First Security's Articles of Association or by-laws or the Trust Agreement or of any bond, debenture, note, mortgage, indenture, credit agreement or other instrument to which First Security is a party or by which it or its property may be bound, and will not constitute (with the giving of notice or the passage of time or both) a default thereunder, or result in the creation or imposition of any lien, charge, security interest or other encumbrance of any nature whatsoever upon the Collateral pursuant to the terms of any such agreement or instrument or (ii) will not, in any material respect, contravene any statutory law, rule, regulation or order applicable to it under federal banking laws or the laws of the State of Utah.
3. Neither the execution and delivery by First Security of this Note and Security Agreement, the Trust Agreement, the Rent Assignment Letter, or the Lease, nor the performance thereof by Debtor requires the authorization, consent or approval of, or the giving of notice to, or the registration with, any United States governmental authority having jurisdiction over the Debtor; provided, however, that the foregoing representation and warranty shall be deemed to be made only with respect to any such authorization, consent, approval, notice or registration which may be required in connection with the Debtor's business generally, and not solely by terms of the overall transaction with the Lessee.

4. First Security is a national banking association duly organized, validly existing and in good standing under the laws of the United States.
5. The Debtor has such title to the Collateral as was conveyed to it by the seller thereof, free and clear of all security interests, liens and encumbrances, which result from claims against the Debtor which are unrelated to its ownership, as Trustee, of the Collateral or its administration under the Trust Agreement, except for the lien in favor of National Westminster Bank, U.S.A, which lien will be discharged with the proceeds hereof, and no other assignment or security interest has been granted by the Debtor with respect to the Collateral.
6. There are no pending or, to the actual knowledge of Debtor, threatened actions or proceedings against or affecting the Debtor before any court or administrative agency which, if determined adversely to Debtor, would have a material adverse effect on the ability of Debtor to perform its obligations hereunder or under the Lease.
7. The rents payable under the Lease are not subject to any defenses, set-offs or counterclaims, nor, to Debtor's actual knowledge, has Lessee asserted any such such defense, set-off or counterclaim, and there is no rent now due and unpaid pursuant to the terms of the Lease nor have there been any payments made in advance on account of the rentals or other sums to become due under the Lease. The Basic Rent payable under the Lease is sufficient to pay principal and interest due under this Note and Security Agreement in accordance with the terms hereof.
8. To the Debtor's knowledge, no Event of Default or event which with the passing of time or the giving of notice, or both, would constitute an Event of Default hereunder or under the Lease has occurred and is continuing.
9. To the Debtor's knowledge, there is no outstanding order, writ, injunction or decree of any court, government or governmental agency against or affecting the Debtor with respect to the Equipment, the Lease, the Trust Agreement or this Note and Security Agreement.

### Section 3. Covenants of the Debtor.

The Debtor hereby covenants and agrees for the benefit of the Lender as follows:

1. All payments to be made by the Lessee under the Lease and by the Debtor hereunder shall be made on the payment date thereof by wire in immediately available funds to:

First Security Bank of Utah, N.A.  
79 S. Main Street  
Salt Lake City, UT 84111  
AE # 124000012  
Corporate Trust Department  
Credit Account # 0510922115  
Re: A/C 6746

All payments to be made by the Debtor hereunder shall be made on the payment date hereof by wire in immediately available funds to:

Dai-Ichi Kangyo Bank, Ltd.  
New York Branch  
One World Trade Center  
Suite 4911  
New York, NY 10048  
ABA #026004307  
Account #10740007818

or to such other address as the Lender designates in writing.

2. All right, title and interest of the Debtor in and to the Collateral and any payments with respect thereto shall be expressly subject and subordinate to all of the right, title and interest of the Lender therein.
3. The Debtor shall not declare a default or exercise the remedies of Lessor under the Lease or modify, rescind, cancel or accept surrender of the Lease or waive or enforce any of the provisions thereof or give any consent with respect thereto or extend the time of payment for payments due thereunder and shall not sell, assign, or transfer its interest in the Lease or the Equipment or take any other action with respect thereto without the prior written consent of the Lender and will include in any documentation submitted to the Lender soliciting its consent, to such sale or transfer a prohibition against any future transfer to any natural person or persons or entity which is not a permitted assignee under the Lease.
4. The Debtor shall keep the Collateral free and clear of all mortgages, pledges, liens, charges, security interests and other encumbrances whatsoever, except those created by this Note and Security Agreement, the rights of Lessee under the Lease and those caused by any act or omission on the part of the Lessee or required to be discharged by the Lessee under the terms of the Lease. The Debtor shall pay all charges, including without limitation, all taxes and assessments levied or assessed against the Debtor, which if unpaid would constitute a lien on the Collateral or any portion thereof, provided, however, that the Debtor shall pay charges required to be paid or

discharged by the Lessee under the terms of the Lease only to the extent that the Debtor shall have received funds from the Lessee allocable to such charges. The Debtor shall not be required to pay or discharge any such charges, taxes or assessments so long as it shall in good faith and by appropriate legal proceedings being diligently prosecuted, contest the validity thereof in any reasonable manner which will not endanger the Lessee's right of quiet enjoyment and use of the Equipment under the Lease or the Lender's security interest in the Collateral pursuant to this Note and Security Agreement.

5. The Debtor shall execute and deliver any and all papers or documents which the Lender may reasonably request from time to time in order to carry out the purposes hereof and of the Lease, or to facilitate the collection of monies due or to become due from the Lessee under the Lease.
6. The Debtor shall duly fulfill or cause to be fulfilled all of the obligations to be performed by the Debtor under the Lease.
7. The Debtor shall not permit the Equipment to be relocated to a jurisdiction outside the contiguous United States.
8. The Debtor shall promptly notify the Lender upon obtaining knowledge of any Event of Default or event, which with the giving of notice or passage of time or both would constitute an Event of Default, hereunder or under the Lease.
9. The Debtor shall allow the Lender and its representatives free access and right of inspection, as provided for in the Lease, of the Equipment at its location, and in the event of loss or damage to the Equipment shall send prompt written notice thereof to the Lender, all to the extent provided for in the Lease.
10. The Debtor shall, upon request of the Lessee, provide the Lessee any and all consents, assistance and Co-operation necessary for the Lessee to maintain property insurance and public liability insurance, showing the Lender as additional insured and loss payee, in amounts and with insurance companies satisfactory to the Lender, all to the extent required by and in accordance with the terms of the Lease.
11. The Debtor shall, upon request of the Lessee, provide the Lessee with any and all consents, assistance and co-operation necessary for the Lessee to keep the Equipment in good repair and operating condition without any costs or liability to the Lender, all to the extent required by and in accordance with the terms of the Lease.
12. The Debtor will maintain its records concerning the Lease at its principal place of business at First Security Bank of Utah, N.A., 79 S. Main Street, Salt Lake City, UT 84111, Attn: Corporate Trust Administration, and will not remove such records, except to a jurisdiction where the Uniform Commercial Code shall be in effect, and upon 30 days' prior written notice to the Lender.



13. The Debtor shall file or cause to be filed in each office where Lender directs such filing to perfect Lender's security interest in the Collateral, all UCC financing statements, agreements, instruments or applications which are furnished to Debtor by Lender.

Section 4. Covenants of the Lender.

The Lender hereby covenants and agrees for the benefit of the Debtor as follows.

1. So long as Lessee is not in default of any of its obligations under the Lease, the interest of the Lender in the Lease and the Equipment shall be subject and subordinate to Lessee's leasehold estate in the Equipment and the Lender will not disturb Lessee's quiet use and possession of the Equipment.
2. The Lender shall, upon receipt of payments of Interim Rent or Basic Rent from Lessee, immediately apply such payments towards the satisfaction of principal and interest and any other amounts then due hereunder.
3. So long as Lessee is not then in default under the Lease, the Lender shall pay over to Debtor within twenty (20) days of receipt, and the Debtor may receive and retain notwithstanding any subsequent default hereunder, all sums received from the Lessee in payment of Basic Rent due under the Lease to the extent such sums exceed the installment of principal and interest and any other amounts then due hereunder. In the event of an exercise by the Lessee of its rights under Section 16 of the Lease and to the extent that all amounts received by Lender pursuant to any such exercise exceed all amounts of principal and interest and any other amounts then due hereunder, Lender shall within twenty (20) days of receipt, of such funds, pay over to Debtor all such amounts. So long as Lessee is not then in default under the Lease, the Lender shall pay over to Debtor within twenty (20) days of receipt from Lessee, and the Debtor may receive and retain notwithstanding any subsequent default hereunder, any payments made by the Lessee pursuant to its indemnification obligations under the Lease as compensation to the Debtor for costs, charges or losses incurred by Debtor. Such sums shall be forwarded to Debtor at First Security Bank of Utah, N.A., 79 S. Main Street, Salt Lake City, UT 84111, Attn: Corporate Trust Administration, or deposited to such account as Debtor may direct.
4. The Debtor shall have the right, to pay and perform for the account of the Lessee any obligation of the Lessee under the Lease (other than the payment of Basic Rent or sums due upon the occurrence of an Event of Loss), in which case the Lender agrees that for purposes of the default provisions of this Note and Security Agreement an Event of Default shall be deemed not to have occurred on account of Lessee's nonperformance of the obligation, unless and until the Debtor shall have declared an Event of Default on account thereof. In the event the Debtor makes payments to the Lender on the account of Lessee, the

Debtor shall be subordinated to the rights of the Lender with respect to such sums.

**Section 5. Rights of the Lender.**

The Debtor hereby irrevocably constitutes and appoints the Lender, and any officer thereof responsible for enforcing the terms of this Note and Security Agreement, Debtor's agent and attorney-in-fact to take any and all appropriate action and to execute any and all documents and instruments which may be necessary or desirable to accomplish the purpose of this Note and Security Agreement. This power of attorney is a power coupled with an interest, shall be irrevocable and shall terminate only upon payment in full of the obligations set forth herein and the termination of this Note and Security Agreement. The powers conferred on the Lender hereunder are solely to protect the Lender's interests in the Collateral and shall not impose any duty upon it to exercise any such powers. Without limiting the generality of the foregoing, the Debtor hereby gives the Lender the power and right, on behalf of the Debtor and without notice to or assent by the Debtor, to do the following:

1. Receive directly from the Lessee all payments of Basic Rent, Supplemental Rent, Casualty Value, Fair Market Value, Termination Values and other sums due and to become due under the Lease and to exercise all rights, privileges and remedies of Lessor under the Lease, including without limitation, the right to grant waivers or consents of any character.
2. Endorse any loss payment or returned premium check and to make, settle and release any claim under any insurance policy with respect to the Equipment.
3. File any claim or take any other action or proceeding in any court of law or equity for the purpose of collecting any and all monies due under the Lease.
4. File financing statements signed only by the Lender with respect to this Note and Security Agreement in accordance with the Uniform Commercial Code or signed by the Lender as attorney-in-fact for the Debtor.

The Debtor hereby ratifies all that the Lender may do pursuant to such power.

The Lender shall be accountable only for the amounts that it actually receives as a result of the exercise of such powers, and neither it nor any of its officers, directors, employees or agents shall be responsible to the Debtor for any action taken or omitted to be taken in good faith or in reliance on the advice of counsel except for its own gross negligence or willful misconduct.

**Section 6. Prepayment.**

This Note and Security Agreement may be prepaid in the following circumstances:

In the event of an exercise by Lessee of its rights of early termination

under Section 16 of the Lease, the unpaid principal, together with all accrued interest under this Note and Security Agreement shall become due and payable on the effective date of such termination.

Upon the occurrence of an Event of Loss under and as defined in Section 10 of the Lease, all or a portion of the unpaid principal under this Note and Security Agreement shall become due and payable, together with accrued interest thereon, on the date on which the Casualty Value is required to be paid by Lessee under the Lease. The amount of principal to be prepaid shall be calculated by multiplying the outstanding principal balance by a fraction (the "Prepayment Factor") determined by dividing the original cost for the item or items of Equipment suffering the Event of Loss by the original cost for all items of Equipment subject to the Lease immediately prior to the Event of Loss. Each remaining installment of principal and interest due hereunder shall be reduced by an amount equal to the amount obtained by multiplying the debt service payment due before the prepayment by the Prepayment Factor.

Otherwise, there shall be no prepayment of this Note and Security Agreement without the prior written consent of the Lender.

**Section 7. Late Payment Rate.**

Any payment past due hereunder shall be payable on demand with interest computed from the day payment was due until the date payment has been received at a rate equal to 1% over the Debt Rate of 10.25% per annum, or if such rate shall exceed the maximum rate of interest allowed by law, then at such maximum rate (the "Late Payment Rate").

**Section 8. Right of Lender to Perform for Debtor.**

If the Debtor defaults in its obligations hereunder, the Lender may, at its option, and without any obligation to do so, effect insurance and pay all taxes, assessments and charges levied on the Equipment or for the storage, maintenance or repair thereof. Any insurance premiums, taxes, assessments and charges so paid shall be secured by this Note and Security Agreement and shall be added to the principal due hereunder and shall be repayable from the Collateral.

**Section 9. Limitations of Liability.**

Principal and interest due hereunder is and shall be repayable from the Collateral only, and the Lender shall have no further recourse against the Debtor or First Security Bank of Utah, N.A. personally; provided, however, and subject to Section 10 hereof, that the Lender shall have recourse against the Debtor personally for any claims arising out of or in connection to the breach by the Debtor of any of its representations, warranties, covenants and undertakings (other than the payment of principal and interest due under this Note and Security Agreement) set forth herein.

**Section 10. Participation of Debtor.**

It is expressly understood and agreed by the Lender, anything herein to the

contrary notwithstanding, that all of the representations, warranties, undertakings, covenants and agreements in this Note and Security Agreement on the part of the Debtor (but not the representations and warranties of the Debtor set forth in paragraphs 2, 3, 4 and 5 of Section 2 hereof) are each and every one of them made and intended not as personal representations, warranties, undertakings and agreements by First Security, or for the purpose or with the intention of binding First Security, but are made and intended for the purpose of binding only the Related Trust Estate (as defined in the Trust Agreement), and this Note and Security Agreement is executed and delivered by the Debtor, solely in the exercise of the powers expressly conferred upon it as Owner Trustee under the Trust Agreement; and that no personal liability or personal responsibility is assumed by or shall at any time be asserted or enforceable against the Debtor (except for Debtor's gross negligence or willful misconduct resulting in a breach of Debtor's covenants hereunder) or against the Debtor (except for breach of those representations and warranties of the Debtor set forth in paragraphs 2, 3, 4 and 5 of Section 2), all such personal liability, if any being expressly waived and released by the Lender; however, it is agreed that the Lender may look to that portion of the said Related Trust Estate set forth and described as Collateral in Section 1 hereof for the satisfaction of same.

**Section 11. Events of Default.**

Any of the following events shall constitute an Event of Default hereunder.

1. The Debtor shall fail to make any payment due hereunder within ten (10) days after the Debtor's receipt of written notice of the nonpayment thereof.
2. An Event of Default under and as defined in the Lease shall have occurred and be continuing unremedied to the satisfaction of the Lender.
3. There shall be imposed upon the Collateral or any part thereof any claim, lien, security interest, encumbrance or charge which is prior to or on parity with the security interest granted hereunder, other than the Lease and liens expressly permitted by the Lease.
4. The Debtor shall fail to perform or observe any other covenant, condition or agreement to be performed or observed by the Debtor hereunder or in any agreement or certificate furnished to the Lender in connection herewith and such failure shall continue unremedied for a period of (30) days after written notice thereof to the Debtor.
5. Any representation or warranty made by the Debtor herein or in any document or certificate furnished to the Lender in connection herewith shall have been incorrect in any material respect when made.
6. The Debtor shall (a) be generally not paying its debts as they become due within the meaning of Title 11 of the United States Code, (b) file, or consent by answer or otherwise to the filing against it of, a petition of relief or reorganization or any other petition in bankruptcy, for liquidation or to take advantage of any bankruptcy or

insolvency law of any jurisdiction, (c) make an assignment for the benefit of its creditors, (d) consent to the appointment of a custodian, receiver, trustee or other officer with similar powers of itself or of any substantial part of its property, or (e) take corporate or comparable action for the purpose of any of the foregoing.

7. Any petition for any relief under any bankruptcy or insolvency law of any jurisdiction shall be filed against the Debtor and such petition shall not be stayed or dismissed within (60) days of the date of filing.
8. A court or governmental authority of competent jurisdiction shall enter an order (a) appointing, without consent by the Debtor, a custodian, receiver, trustee or other officer with similar powers with respect to it or with respect to any substantial part of its property, or (b) approving a petition for relief or reorganization or any other petition in bankruptcy or for liquidation or to take advantage of any bankruptcy or insolvency law of any jurisdiction, or (c) ordering the dissolution, winding-up or liquidation of the Debtor.

#### Section 12. Remedies.

If an Event of Default hereunder shall have occurred, then, or at any time thereafter while such Event of Default is continuing, the Lender may declare the principal balance hereof and all accrued interest due and payable, whereupon it shall become immediately due and payable without notice or demand. It shall then be lawful for the Lender (and the Debtor hereby authorizes and empowers the Lender with the aide and assistance of any persons) to exercise any one or more of the following remedies:

1. Subject and subordinate to the rights of the Lessee under the Lease, to enter upon such place as the Equipment may be found and take possession of and carry away the Collateral, or any portion thereof (either with or without taking possession and without instituting any legal proceedings whatsoever) with process of law at any time or times, and to dispose of the Collateral at public auction or (at private sale or sales, in one lot as an entirety or in separate lots, and either for cash or on credit and on such terms as the Lender may determine, and the Lender may bid and become the purchaser at any such sale) and apply the proceeds thereof to the balance hereof or any other obligation arising hereunder, all to the extent permitted by and in accordance with law and with the Lease.
2. If any Event of Default has occurred and is continuing under the Lease, as assignee of the Lessor's interest in the Lease, to exercise any or all of the rights and powers and pursue any or all of the remedies provided for in the Lease.
3. To exercise any or all of the rights and powers and pursue any or all of the remedies that are available to a secured party under the Uniform Commercial Code or any other applicable law or in equity in respect to the Collateral.

The Debtor will reimburse the Lender for all fees of attorneys or collection agencies and all expenses, costs and charges paid or payable to third persons or suffered or incurred by the Lender in attempting or effecting protection or preservation of its security interest in the Collateral or the enforcement of any provision of this Note and Security Agreement. Costs of collecting the amounts secured hereby shall be added to the principal amount due hereunder and shall be secured by, and payable solely out of, the Collateral.

The proceeds of any sale of the Collateral or any part thereof or any interest therein and the proceeds of the exercise of any other remedy with respect to the Collateral, shall be applied by the Lender, first, to the payment of accrued but unpaid interest hereon, second, to the payment of any amount due hereunder other than principal and interest, third, to the repayment of the outstanding principal balance hereof, including costs and expenses incurred by the Lender or any person or party acting on behalf of the Lender in connection with the exercise of remedies hereunder and added to principal as hereinabove provided, and fourth, to whomever shall be lawfully entitled thereto.

All rights, remedies and options conferred upon the Lender hereunder or by law shall be cumulative and may be exercised successively or concurrently and are not alternative or exclusive of any other such rights, remedies or options. No express or implied waiver by the Lender of any default or event of default hereunder shall in any way be, or be construed to be, a waiver of any future or subsequent default or event of default. The failure or delay of the Lender in exercising any rights granted hereunder shall not constitute a waiver of any such right in the future and any single or partial exercise of any particular right by the Lender shall not exhaust such rights or constitute a waiver of any other right provided herein.

**Section 13. Miscellaneous.**

This Note and Security Agreement may not be amended, waived, or discharged, except by an agreement in writing by the party against which or whom enforcement of the amendment, waiver or discharge is sought. In case any one or more of the provisions contained in this Note and Security Agreement shall be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired thereby in such jurisdiction, nor shall such provision be invalid, illegal or unenforceable in another jurisdiction to which the holding thereof shall not apply. Time and exactitude are of the essence hereof.

All notices to be made hereunder shall be in writing and (a) if to Debtor, addressed to it at 79 S. Main Street, Salt lake City, UT 84111, Attn: Corporate Trust Administration, and (b) if to the Lender, addressed to it at 777 West Putnam Avenue, Greenwich, Connecticut 06830, Attn: Mr. William H. Besgen with a copy to First Security Bank of Utah, N.A., 79 S. Main Street, Salt Lake City, UT 84111, Attn: Corporate Trust and Agency Division. Either party hereto may change the address to which notice to such party shall be sent by giving written notice of such change to the other party to this Note and Security Agreement.

It is the intention of the parties that the provisions of this Note and Security Agreement shall be governed by the laws of The Commonwealth of

Massachusetts.

All interest due hereunder shall be computed on the basis of a 360 day year.

Section headings and captions are inserted for convenience only and shall not affect any construction or interpretation of this Note and Security Agreement. The words "herein", "hereof", "hereby", "hereto", "hereunder", and words of similar import refer to this Note and Security Agreement as a whole and not to any particular section, subsection, paragraph, clause or subdivision hereof. Capitalized terms used herein and not otherwise defined shall have the meaning ascribed to them in the Lease.

IN WITNESS WHEREOF, the parties hereto have caused this Note and Security Agreement to be duly executed this 30th day of June, 1994.

Attached hereto as Exhibit A is a true and complete copy of the Lease.

FIRST SECURITY BANK OF UTAH, N.A.,  
not in its individual capacity except  
as expressly stated, but solely as  
Owner Trustee

By: 

Title: 

Executed on June 30, 1994

HITACHI CREDIT AMERICA CORP.

By: \_\_\_\_\_

Title: \_\_\_\_\_

Executed on June 30, 1994

Massachusetts.

All interest due hereunder shall be computed on the basis of a 360 day year.

Section headings and captions are inserted for convenience only and shall not affect any construction or interpretation of this Note and Security Agreement. The words "herein", "hereof", "hereby", "hereto", "hereunder", and words of similar import refer to this Note and Security Agreement as a whole and not to any particular section, subsection, paragraph, clause or subdivision hereof. Capitalized terms used herein and not otherwise defined shall have the meaning ascribed to them in the Lease.

IN WITNESS WHEREOF, the parties hereto have caused this Note and Security Agreement to be duly executed this 30th day of June, 1994.

Attached hereto as Exhibit A is a true and complete copy of the Lease.

FIRST SECURITY BANK OF UTAH, N.A.,  
not in its individual capacity except  
as expressly stated, but solely as  
Owner Trustee

HITACHI CREDIT AMERICA CORP.

By: \_\_\_\_\_

By: Robert DeMoro

Title: \_\_\_\_\_

Title: VICE PRESIDENT

Executed on June 30, 1994

Executed on June 30, 1994



## Schedule A Equipment Description

LESSEE: THE ATCHISON, TOPEKA AND SANTA FE R R RENTAL SCHEDULE AND ACCEPTANCE CERTIFICATE NUMBER: 05/15/79  
LESSOR: AMERICAN FINANCE GROUP

Equipment Cost	Serial Number	Year Manufacturer	Model	Type	Acceptance Date
30,622.48	317500	1979	MARINE INDUSTRIES	HOPPERS	2/15/1994
30,622.48	317501	1979	MARINE INDUSTRIES	HOPPERS	2/15/1994
30,622.48	317502	1979	MARINE INDUSTRIES	HOPPERS	2/15/1994
30,622.48	317503	1979	MARINE INDUSTRIES	HOPPERS	2/15/1994
30,622.48	317504	1979	MARINE INDUSTRIES	HOPPERS	2/15/1994
30,622.48	317505	1979	MARINE INDUSTRIES	HOPPERS	2/15/1994
30,622.48	317506	1979	MARINE INDUSTRIES	HOPPERS	2/15/1994
30,622.48	317507	1979	MARINE INDUSTRIES	HOPPERS	2/15/1994
30,622.48	317508	1979	MARINE INDUSTRIES	HOPPERS	2/15/1994
30,622.48	317509	1979	MARINE INDUSTRIES	HOPPERS	2/15/1994
30,622.48	317510	1979	MARINE INDUSTRIES	HOPPERS	2/15/1994
30,622.48	317511	1979	MARINE INDUSTRIES	HOPPERS	2/15/1994
30,622.48	317512	1979	MARINE INDUSTRIES	HOPPERS	2/15/1994
30,622.48	317513	1979	MARINE INDUSTRIES	HOPPERS	2/15/1994
30,622.48	317514	1979	MARINE INDUSTRIES	HOPPERS	2/15/1994
30,622.48	317515	1979	MARINE INDUSTRIES	HOPPERS	2/15/1994
30,622.48	317516	1979	MARINE INDUSTRIES	HOPPERS	2/15/1994
30,622.48	317517	1979	MARINE INDUSTRIES	HOPPERS	2/15/1994
30,622.48	317518	1979	MARINE INDUSTRIES	HOPPERS	2/15/1994
30,622.48	317519	1979	MARINE INDUSTRIES	HOPPERS	2/15/1994
30,622.48	317520	1979	MARINE INDUSTRIES	HOPPERS	2/15/1994
30,622.48	317521	1979	MARINE INDUSTRIES	HOPPERS	2/15/1994
30,622.48	317522	1979	MARINE INDUSTRIES	HOPPERS	2/15/1994
30,622.48	317523	1979	MARINE INDUSTRIES	HOPPERS	2/15/1994
30,622.48	317524	1979	MARINE INDUSTRIES	HOPPERS	2/15/1994
30,622.48	317525	1979	MARINE INDUSTRIES	HOPPERS	2/15/1994
30,622.48	317526	1979	MARINE INDUSTRIES	HOPPERS	2/15/1994
30,622.48	317527	1979	MARINE INDUSTRIES	HOPPERS	2/15/1994
30,622.48	317528	1979	MARINE INDUSTRIES	HOPPERS	2/15/1994
30,622.48	317529	1979	MARINE INDUSTRIES	HOPPERS	2/15/1994
30,622.48	317530	1979	MARINE INDUSTRIES	HOPPERS	2/15/1994
30,622.48	317531	1979	MARINE INDUSTRIES	HOPPERS	2/15/1994
30,622.48	317532	1979	MARINE INDUSTRIES	HOPPERS	2/15/1994
30,622.48	317533	1979	MARINE INDUSTRIES	HOPPERS	2/15/1994
30,622.48	317534	1979	MARINE INDUSTRIES	HOPPERS	2/15/1994
30,622.48	317535	1979	MARINE INDUSTRIES	HOPPERS	2/15/1994
30,622.48	317536	1979	MARINE INDUSTRIES	HOPPERS	2/15/1994
30,622.48	317537	1979	MARINE INDUSTRIES	HOPPERS	2/15/1994
30,622.48	317538	1979	MARINE INDUSTRIES	HOPPERS	2/15/1994
30,622.48	317539	1979	MARINE INDUSTRIES	HOPPERS	2/15/1994
30,622.48	317540	1979	MARINE INDUSTRIES	HOPPERS	2/15/1994
30,622.48	317541	1979	MARINE INDUSTRIES	HOPPERS	2/15/1994
30,622.48	317542	1979	MARINE INDUSTRIES	HOPPERS	2/15/1994
30,622.48	317543	1979	MARINE INDUSTRIES	HOPPERS	2/15/1994
30,622.48	317544	1979	MARINE INDUSTRIES	HOPPERS	2/15/1994

## Schedule A Equipment Description

LESSEE: THE ATCHISON, TOPEKA AND SANTA FE R R RENTAL SCHEDULE AND ACCEPTANCE CERTIFICATE NUMBER: 05/15/79  
LESSOR: AMERICAN FINANCE GROUP

Equipment Cost	Serial Number	Year Manufacturer	Model	Type	Acceptance Date
30,622.48	317545	1979 MARINE INDUSTRIES	T105	HOPPERS	2/15/1994
30,622.48	317546	1979 MARINE INDUSTRIES	T105	HOPPERS	2/15/1994
30,622.48	317547	1979 MARINE INDUSTRIES	T105	HOPPERS	2/15/1994
30,622.48	317549	1979 MARINE INDUSTRIES	T105	HOPPERS	2/15/1994
30,622.48	317548	1979 MARINE INDUSTRIES	T105	HOPPERS	2/15/1994
30,622.48	317550	1979 MARINE INDUSTRIES	T105	HOPPERS	2/15/1994
30,622.48	317551	1979 MARINE INDUSTRIES	T105	HOPPERS	2/15/1994
30,622.48	317552	1979 MARINE INDUSTRIES	T105	HOPPERS	2/15/1994
30,622.48	317553	1979 MARINE INDUSTRIES	T105	HOPPERS	2/15/1994
30,622.48	317554	1979 MARINE INDUSTRIES	T105	HOPPERS	2/15/1994
30,622.48	317555	1979 MARINE INDUSTRIES	T105	HOPPERS	2/15/1994
30,622.48	317556	1979 MARINE INDUSTRIES	T105	HOPPERS	2/15/1994
30,622.48	317557	1979 MARINE INDUSTRIES	T105	HOPPERS	2/15/1994
30,622.48	317558	1979 MARINE INDUSTRIES	T105	HOPPERS	2/15/1994
30,622.48	317559	1979 MARINE INDUSTRIES	T105	HOPPERS	2/15/1994
30,622.48	317560	1979 MARINE INDUSTRIES	T105	HOPPERS	2/15/1994
30,622.48	317561	1979 MARINE INDUSTRIES	T105	HOPPERS	2/15/1994
30,622.48	317562	1979 MARINE INDUSTRIES	T105	HOPPERS	2/15/1994
30,622.48	317563	1979 MARINE INDUSTRIES	T105	HOPPERS	2/15/1994
30,622.48	317564	1979 MARINE INDUSTRIES	T105	HOPPERS	2/15/1994
30,622.48	317565	1979 MARINE INDUSTRIES	T105	HOPPERS	2/15/1994
30,622.48	317566	1979 MARINE INDUSTRIES	T105	HOPPERS	2/15/1994
30,622.48	317567	1979 MARINE INDUSTRIES	T105	HOPPERS	2/15/1994
30,622.48	317568	1979 MARINE INDUSTRIES	T105	HOPPERS	2/15/1994
30,622.48	317569	1979 MARINE INDUSTRIES	T105	HOPPERS	2/15/1994
30,622.48	317570	1979 MARINE INDUSTRIES	T105	HOPPERS	2/15/1994
30,622.48	317571	1979 MARINE INDUSTRIES	T105	HOPPERS	2/15/1994
30,622.48	317572	1979 MARINE INDUSTRIES	T105	HOPPERS	2/15/1994
30,622.48	317574	1979 MARINE INDUSTRIES	T105	HOPPERS	2/15/1994
30,622.48	317575	1979 MARINE INDUSTRIES	T105	HOPPERS	2/15/1994
30,622.48	317576	1979 MARINE INDUSTRIES	T105	HOPPERS	2/15/1994
30,622.48	317577	1979 MARINE INDUSTRIES	T105	HOPPERS	2/15/1994
30,622.48	317578	1979 MARINE INDUSTRIES	T105	HOPPERS	2/15/1994
30,622.48	317579	1979 MARINE INDUSTRIES	T105	HOPPERS	2/15/1994
30,622.48	317580	1979 MARINE INDUSTRIES	T105	HOPPERS	2/15/1994
30,622.48	317581	1979 MARINE INDUSTRIES	T105	HOPPERS	2/15/1994
30,622.48	317582	1979 MARINE INDUSTRIES	T105	HOPPERS	2/15/1994
30,622.48	317583	1979 MARINE INDUSTRIES	T105	HOPPERS	2/15/1994
30,622.48	317584	1979 MARINE INDUSTRIES	T105	HOPPERS	2/15/1994
30,622.48	317585	1979 MARINE INDUSTRIES	T105	HOPPERS	2/15/1994
30,622.48	317586	1979 MARINE INDUSTRIES	T105	HOPPERS	2/15/1994
30,622.48	317587	1979 MARINE INDUSTRIES	T105	HOPPERS	2/15/1994
30,622.48	317588	1979 MARINE INDUSTRIES	T105	HOPPERS	2/15/1994
30,622.48	317589	1979 MARINE INDUSTRIES	T105	HOPPERS	2/15/1994
30,622.48	317590	1979 MARINE INDUSTRIES	T105	HOPPERS	2/15/1994

## Schedule A Equipment Description

LESSEE: THE ATCHISON, TOPEKA AND SANTA FE R

RENTAL SCHEDULE AND ACCEPTANCE CERTIFICATE NUMBER: 05/15/79

LESSOR: AMERICAN FINANCE GROUP

Equipment Cost	Serial Number	Year	Manufacturer	Model	Type	Acceptance Date
30,622.48	317591	1979	MARINE INDUSTRIES	T105	HOPPERS	2/15/1994
30,622.48	317592	1979	MARINE INDUSTRIES	T105	HOPPERS	2/15/1994
30,622.48	317593	1979	MARINE INDUSTRIES	T105	HOPPERS	2/15/1994
30,622.48	317594	1979	MARINE INDUSTRIES	T105	HOPPERS	2/15/1994
30,622.48	317595	1979	MARINE INDUSTRIES	T105	HOPPERS	2/15/1994
30,622.48	317596	1979	MARINE INDUSTRIES	T105	HOPPERS	2/15/1994
30,622.48	317597	1979	MARINE INDUSTRIES	T105	HOPPERS	2/15/1994
30,622.48	317598	1979	MARINE INDUSTRIES	T105	HOPPERS	2/15/1994
30,622.48	317599	1979	MARINE INDUSTRIES	T105	HOPPERS	2/15/1994
30,622.48	317600	1979	MARINE INDUSTRIES	T105	HOPPERS	2/15/1994
30,622.48	317601	1979	MARINE INDUSTRIES	T105	HOPPERS	2/15/1994
30,622.48	317602	1979	MARINE INDUSTRIES	T105	HOPPERS	2/15/1994
30,622.48	317603	1979	MARINE INDUSTRIES	T105	HOPPERS	2/15/1994
30,622.48	317604	1979	MARINE INDUSTRIES	T105	HOPPERS	2/15/1994
30,622.48	317605	1979	MARINE INDUSTRIES	T105	HOPPERS	2/15/1994
30,622.48	317606	1979	MARINE INDUSTRIES	T105	HOPPERS	2/15/1994
30,622.48	317607	1979	MARINE INDUSTRIES	T105	HOPPERS	2/15/1994
30,622.48	317608	1979	MARINE INDUSTRIES	T105	HOPPERS	2/15/1994
30,622.48	317609	1979	MARINE INDUSTRIES	T105	HOPPERS	2/15/1994
30,622.48	317610	1979	MARINE INDUSTRIES	T105	HOPPERS	2/15/1994
30,622.48	317611	1979	MARINE INDUSTRIES	T105	HOPPERS	2/15/1994
30,622.48	317612	1979	MARINE INDUSTRIES	T105	HOPPERS	2/15/1994
30,622.48	317613	1979	MARINE INDUSTRIES	T105	HOPPERS	2/15/1994
30,622.48	317614	1979	MARINE INDUSTRIES	T105	HOPPERS	2/15/1994
30,622.48	317615	1979	MARINE INDUSTRIES	T105	HOPPERS	2/15/1994
30,622.48	317616	1979	MARINE INDUSTRIES	T105	HOPPERS	2/15/1994
30,622.48	317617	1979	MARINE INDUSTRIES	T105	HOPPERS	2/15/1994
30,622.48	317618	1979	MARINE INDUSTRIES	T105	HOPPERS	2/15/1994
30,622.48	317619	1979	MARINE INDUSTRIES	T105	HOPPERS	2/15/1994
30,622.48	317620	1979	MARINE INDUSTRIES	T105	HOPPERS	2/15/1994
30,622.48	317621	1979	MARINE INDUSTRIES	T105	HOPPERS	2/15/1994
30,622.48	317622	1979	MARINE INDUSTRIES	T105	HOPPERS	2/15/1994
30,622.48	317623	1979	MARINE INDUSTRIES	T105	HOPPERS	2/15/1994
30,622.48	317624	1979	MARINE INDUSTRIES	T105	HOPPERS	2/15/1994
30,622.48	317625	1979	MARINE INDUSTRIES	T105	HOPPERS	2/15/1994
30,622.48	317626	1979	MARINE INDUSTRIES	T105	HOPPERS	2/15/1994
30,622.48	317627	1979	MARINE INDUSTRIES	T105	HOPPERS	2/15/1994
30,622.48	317628	1979	MARINE INDUSTRIES	T105	HOPPERS	2/15/1994
30,622.48	317629	1979	MARINE INDUSTRIES	T105	HOPPERS	2/15/1994
30,622.48	317630	1979	MARINE INDUSTRIES	T105	HOPPERS	2/15/1994
30,622.48	317631	1979	MARINE INDUSTRIES	T105	HOPPERS	2/15/1994
30,622.48	317632	1979	MARINE INDUSTRIES	T105	HOPPERS	2/15/1994
30,622.48	317633	1979	MARINE INDUSTRIES	T105	HOPPERS	2/15/1994
30,622.48	317634	1979	MARINE INDUSTRIES	T105	HOPPERS	2/15/1994
30,622.48	317635	1979	MARINE INDUSTRIES	T105	HOPPERS	2/15/1994

## Schedule A Equipment Description

LESSEE: THE ATCHISON, TOPEKA AND SANTA FE R R RENTAL SCHEDULE AND ACCEPTANCE CERTIFICATE NUMBER: 05/15/79

LESSOR: AMERICAN FINANCE GROUP

Equipment Cost	Serial Number	Year Manufacturer	Model	Type	Acceptance Date
30,622.48	317636	1979 MARINE INDUSTRIES	T105	HOPPERS	2/15/1994
30,622.48	317637	1979 MARINE INDUSTRIES	T105	HOPPERS	2/15/1994
30,622.48	317638	1979 MARINE INDUSTRIES	T105	HOPPERS	2/15/1994
30,622.48	317639	1979 MARINE INDUSTRIES	T105	HOPPERS	2/15/1994
30,622.48	317640	1979 MARINE INDUSTRIES	T105	HOPPERS	2/15/1994
30,622.48	317641	1979 MARINE INDUSTRIES	T105	HOPPERS	2/15/1994
30,622.48	317642	1979 MARINE INDUSTRIES	T105	HOPPERS	2/15/1994
30,622.48	317643	1979 MARINE INDUSTRIES	T105	HOPPERS	2/15/1994
30,622.48	317644	1979 MARINE INDUSTRIES	T105	HOPPERS	2/15/1994
30,622.48	317645	1979 MARINE INDUSTRIES	T105	HOPPERS	2/15/1994
30,622.48	317646	1979 MARINE INDUSTRIES	T105	HOPPERS	2/15/1994
30,622.48	317647	1979 MARINE INDUSTRIES	T105	HOPPERS	2/15/1994
30,622.48	317648	1979 MARINE INDUSTRIES	T105	HOPPERS	2/15/1994
30,622.96	317649	1979 MARINE INDUSTRIES	T105	HOPPERS	2/15/1994
4,562,750.00	Total for Location 1700 E GOLD RD		SCHAUMBURG	IL 60173	
4,562,750.00	Total Equipment Cost				

STATE OF Utah }

COUNTY OF Salt Lake }

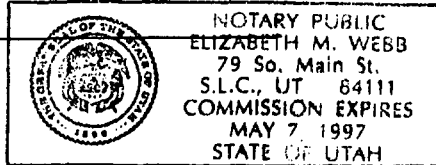
SS:

On this 29<sup>th</sup> day of June 1994, before me personally appeared John A. Clayton, to me personally known, who, being by me duly sworn, did say that he/she is the Asst. Vice President of First Security Bank of Utah, executed the foregoing instrument as Owner Trustee; and that he/she signed his/her name thereto by order of the Board of Directors of said corporation.

(seal)

Elizabeth M. Webb  
Signature of Notary Public

My Commission Expires: \_\_\_\_\_



STATE OF Connecticut }

COUNTY OF Fairfield }

ss: Greenwich

On this 29 day of June 1994, before me personally appeared Robert Degenova, to me personally known, who, being by me duly sworn, did say that he/she is the Vice President of Hitachi Credit America Corp. described in and who executed the foregoing instrument as Lender; and that he/she signed his/her name thereto by order of the Board of Directors of said corporation.

(seal)

Yvonne A. Flynn  
Signature of Notary Public

My Commission Expires: \_\_\_\_\_

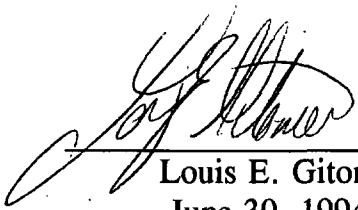
**YVONNE A. FLYNN**

**NOTARY PUBLIC**

MY COMMISSION EXPIRES AUG. 31, 1997

**CERTIFICATION**

I, LOUIS E. GITOMER, have compared this copy to the Note and Security Agreement, dated June 30, 1994, and found the copy to be complete and identical in all respects to the original document. I declare under penalty of perjury that the foregoing is true and correct.



---

Louis E. Gitomer  
June 30, 1994